

CONV 486/03

CONTRIB 189

COVER NOTE

from Secretariat

to The Convention

Subject : Contribution from Ms Elena Paciotti, alternate member

- “About the presidency of the European union and its institutions”

The Secretary-General of the Convention has received the abovementioned contribution from Ms Elena Paciotti , alternate member of the Convention.

ABOUT THE PRESIDENCY OF THE EUROPEAN UNION AND ITS INSTITUTIONS

Contribution of Elena PACIOTTI - MEP

1. It is a widespread opinion that the European Union should "speak with one single voice" recognisable by its citizens and by its external interlocutors.

Unfortunately, several proposals are presently under discussion, which seem moving to the opposite direction.

I refer to the proposal of a European Union with two Presidents: the President of the European Commission - a permanent body of the Union - and another President who should be the real representative of the Union. This latter would chair the European Council, at least in some of its various functions.

This does not seem, in my opinion, coherent and it would be likely to raise problems and conflicts.

On the one hand, in facts, the cohabitation of two presidents may cause tensions, even in the most unitary of Nation States, and it could be even more so in a supranational structure such as the European Union; on the other hand, it is almost impossible to find an institutionally balanced solution for the attribution to the President of the European Council of the function of external permanent representative of the Union.

It is clear that this President could not be, as it is now, the Head of State or Government of one of the Member States, because his/her national institutional functions would not allow him/her to devote him/herself fully and for a sufficiently long period to the representation of a political Union with wider dimensions and functions.

Nor could the Presidency of the Union and of the European Council be attributed to a different subject elected by the Council itself (for example, the hypothesis of a former Head of State or Government) and suitable to stay in force for a sufficiently long time (five years or two years and a half) without national governmental responsibilities. In facts, though having a very relevant function, this subject would not be representative of the body it would chair. This body, formed by the democratically elected governments of 25 and more Member States, could vary its composition and, therefore, its political orientation several times in a few years due to national political

elections. Moreover, such a president would be politically unaccountable for it could respond neither to the ever-changing body he/she chaired, nor to any other democratic instance.

On the contrary, the attribution of the external representation of the Union to the President of the European Commission raises no solid objections. He/she would be entirely devoted to implement and interpret the common interests of the Union. He/she would remain in charge for five years and he/she should be politically accountable to the European Parliament.

If the Presidency must be attributed to the President of the European Commission, it is necessary for him/her to be - more and better than is the case now - a real expression of the dual legitimacy of the Union, that of the States and that of the peoples and citizens: i.e. he/she must get support from both the majority of the Council and the majority of the Parliament.

2. This hypothesis suggests that the President of the Commission may be elected at the beginning of the term by the majority of the members of the European Parliament. He/she should be chosen among candidates proposed by the European Council, acting by qualified majority, duly taking into account European Parliament elections ' results.

This kind of dual legitimacy for the President of the Commission is fully coherent not only with his/her functions as President of the Union but also with the specific functions of the Commission. The Commission is, indeed, not only the executive body of the European Union, but also it ensures the respect by Member States of the Constitution and of the Treaties as well as the coherence of European Union law through the exclusive power of legislative initiative. For these reasons its President cannot be the expression of a single political party.

I also consider that this dual legitimacy should support the appointment of the Union's "Minister of Foreign affairs"/ vice president of the Commission/High representative for the Common Foreign and Security Policy.

3. The functions of the European Council and the Council and the presidency of the different Council formations should be better defined in connection with the respective roles of each.

3.1 The European Council should become a real institution of the Union, the political engine for its development, competent to define its general strategies.

The European Council has already, in the past - from Cologne to Laeken, from Tampere to Lisbon - given valuable guidelines expressing the European vision of the Member States.

Under the impulse of the Commission, such general strategies will have to be implemented by

Parliament and the Council according to their respective competencies.

Bearing in mind that the European Council is composed by the Heads of State and Government of the 25 (or more) Member States and that it works collegially, the Presidency of the sessions can well be attributed in turn to each Member State remaining in charge between one session and the other (or anyway for a short period, as it is the case for the presidency of the UN Security Council). The President of the Commission, who is a member of the European Council, ensures its continuity.

3.2 The functions of the Council must be sharply separated. The Council exercising its legislative functions in codecision with the European Parliament must become a sort of Chamber of States, composed by the ministers in charge for European Affairs. Also in this case, the presidency may be attributed in turn to a representative of each Member State. Alternatively, the Council itself could elect a president among its members for an appropriate period.

I oppose the hypothesis of a President of the Commission chairing this composition of the Council. In my view, it clashes with the effort to ensure - as far as possible - the principle of separation of powers even at European Union's level.

3.3 The Council exercising its functions of political decision and management in the field of foreign policy could usefully be co-ordinated or chaired by the High Representative for Foreign Policy/vice president of the Commission. The other specialised compositions of the Council exercising functions of political decision and management (like in the ECOFIN and JHA fields) may also be chaired by the corresponding members of the Commission who would ensure the continuity of the Union's political action. In the same fields, the Commission, due to the complexity of competencies, could count not only on a commissioner but also on vice-commissioners. In this way, the appointment of a Commissioner for each Member State would not undermine the effectiveness of the Commission itself.

Strasbourg, 13 January 2003